

SENATE No. 18

The Commonwealth of Massachusetts

PRESENTED BY:

Moore, Richard (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Relative to Pandemic and Disaster Preparation and Response in the Commonwealth

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Moore, Richard (SEN)	Worcester and Norfolk
Stephen M. Brewer	Worcester, Hampden, Hampshire and Franklin

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02775 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO PANDEMIC AND DISASTER PREPARATION AND RESPONSE IN THE COMMONWEALTH.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority
of the same, as follows:*

1 SECTION 1. Chapter 17 of the General Laws is hereby amended by striking out section
2 2A, as appearing in the 2006 Official Edition, and inserting in place thereof the following
3 section:-

4 Section 2A. (a) Upon declaration by the governor that an emergency exists which is detrimental
5 to the public health or upon declaration of a state of emergency under chapter 639 of the acts of
6 1950, as amended, the commissioner may, during such period of emergency, take such action
7 and incur such liabilities as he or she may consider necessary to assure the maintenance of public
8 health and the prevention of disease. The commissioner may establish procedures to be followed
9 during such emergency to ensure the continuation of essential public health services and the
10 enforcement of the same.

11 In circumstances where the governor declares that the emergency detrimental to public health is
12 limited to a specified local area, the appropriate local public health authority, as defined in

section 1 of chapter 111, may, with the approval of the commissioner, during such period of emergency, take such action and incur such liabilities as it may deem necessary to assure the maintenance of public health and the prevention of disease. Furthermore, in such circumstances, such local public health authority may, with the approval of the commissioner, establish procedures to be followed during such emergency to insure the continuation of essential public health services and the enforcement of the same. Nothing in this section shall supersede the normal operating authority of the local public health authorities, provided that such authority shall not be exercised in a manner that conflicts with any procedure or order issued by the Commissioner to assure the maintenance of public health and the prevention of disease during such emergency.

(b) Upon declaring a public health emergency or state of emergency, the governor may activate the state comprehensive emergency management plan and its associated processes, including authority pursuant to chapter 639 of the acts of 1950. Such declaration may authorize the deployment and use of any forces to which the plan applies and the use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or available.

(c) During such public health emergency or state of emergency, any person who renders assistance or advice during the emergency as provided in section 1 of chapter 258 shall be protected from liability to the extent provided by chapter 258.

(d) During such public health emergency or state of emergency, any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of assisting in responding to the emergency, shall

not be civilly liable for causing the death of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission, or for causing loss of, or damage to, the property of such person, except in the event of willful, wanton, or reckless misconduct.

The immunities provided in this subsection shall not apply to any person whose act or omission caused in whole or in part such emergency or who would otherwise be liable therefore.

(e) The declaration of an emergency detrimental to the public health shall terminate when so declared by the governor, or automatically after 90 days, unless renewed by the governor. Each renewal shall terminate after 90 days unless renewed for an additional 90 days, or unless sooner terminated by order of the general court.

(f) Upon termination of an emergency detrimental to the public health, all powers granted to and exercised by the commissioner and local public health authorities under this section and section 2B shall terminate.

SECTION 2. Said chapter 17 is hereby further amended by inserting after section 2A the following section:-

Section 2B. (a) In this section, "Health care facility", means any non-federal institution, building, or agency or portion thereof, whether public or private (for-profit or nonprofit) that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. This includes, but is not limited to: ambulatory surgical facilities, health maintenance organizations, home health agencies, hospices, hospitals, infirmaries, intermediate care facilities, kidney treatment centers, long term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatments facilities, skilled nursing facilities, and adult day-

care centers. The term also includes, but is not limited to, the following related property when used for or in connection with the foregoing: alternate care sites, laboratories; research facilities; pharmacies; laundry facilities; health personnel training and lodging facilities; patient, guest, and health personnel food service facilities; and offices and office buildings for persons engaged in health care professions or services. In this section, “Health care provider”, means any person or entity that provides health care services including, but not limited to, health plans, health maintenance organizations, hospitals, medical clinics and offices, special care facilities, medical laboratories, physicians, pharmacists, dentists, physician assistants, nurse practitioners, registered and other nurses, paramedics, and emergency medical or laboratory technicians. In this section, “Health care professional”, includes, but is not limited to, a registered nurse, licensed practical nurse, physician, physician assistant, dentist, pharmacist, pharmacy technician, psychologist and social worker.

(b) Specifically, but without limiting the generality of section 2A and notwithstanding the provisions of any other law, the commissioner shall have and may exercise, or may direct or authorize other state or local government agencies to exercise, authority relative to any one or more of the following if necessary to protect the public health during an emergency declared pursuant to section 2A or a state of emergency declared under chapter 639 of the acts of 1950.. During either type of declared emergency, a local public health authority as defined in section 1 of chapter 111 may exercise authority relative to subparagraphs (1), (2), (3), (4), (6), (7), (13), (14), and (15); and with the approval of the Commissioner may exercise authority relative to subparagraphs (5), (8), (9), (10), and (11). Notwithstanding any provision of this section to the contrary, provided that, based on a periodic review, the Commissioner has found that within the City of Boston, the local public health authority has adequate and appropriate resources to

exercise authority relative to subparagraph (5), said local public health authority, after notifying the Commissioner, may exercise authority relative to subparagraph (5) of this section during either type of declared emergency unless such action is deemed by the Commissioner, after consultation with the local public health authority, to be contrary to the interests of the Commonwealth.

(1) to require the owner or occupier of premises to permit entry into and investigation of the premises;

(2) to close, direct, and compel the evacuation of, or to decontaminate or cause to be decontaminated any building or facility, and to allow the reopening of the building or facility when the danger has ended;

(3) to decontaminate or cause to be decontaminated, or to destroy any material;

(4) to restrict or prohibit assemblages of persons;

(5) to require a health care facility to provide services or the use of its facility, or to transfer the management and supervision of the health care facility to the department or to a local public health authority;

(6) to control ingress to and egress from any stricken or threatened public area, and the movement of persons and materials within the area;

(7) to adopt and enforce measures to provide for the safe disposal of infectious waste and human remains, provided that religious, cultural, family, and individual beliefs of the deceased person shall be followed to the extent possible when disposing of human remains, whenever that may be done without endangering the public health;

(8) to procure, take immediate possession from any source, store, or distribute any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies located within the commonwealth as may be necessary to respond to the emergency;

(9) to require in-state health care providers to assist in the performance of vaccination, treatment, examination, or testing of any individual as a condition of licensure, authorization, or the ability to continue to function as a health care provider in the commonwealth;

(10) to waive the commonwealth's licensing requirements for health care professionals with a valid license from another state in the United States or whose professional training would otherwise qualify them for an appropriate professional license in the commonwealth;

(11) to allow for the dispensing of controlled substances by appropriate personnel consistent with federal statutes as necessary for the prevention or treatment of illness;

(12) to authorize the chief medical examiner to appoint and prescribe the duties of such emergency assistant medical examiners as may be required for the proper performance of the duties of the office;

(13) to collect specimens and perform tests on any animal, living or deceased;

(14) to exercise authority under sections 95 and 96 of chapter 111;

(15) to care for any emerging mental health or crisis counseling needs that individuals may exhibit, with the consent of the individuals.

Upon request or issuance of an order by the commissioner or his or her designee, or by a local public health authority or its designee, an officer authorized to serve criminal process may arrest without a warrant any person whom the officer has probable cause to believe has violated an

order given to effectuate the purposes of this subsection and shall use reasonable diligence to enforce such order.

Any person who knowingly violates an order of the commissioner or his or her designee, or of a local public health authority or its designee, given to effectuate the purposes of this subsection shall be punished by imprisonment for not more than 6 months, or by a fine of not more than one thousand dollars, or both.

(c) During an emergency declared pursuant to section 2A or a state of emergency declared under chapter 639 of the acts of 1950 the commissioner may request assistance from the Massachusetts emergency management agency and the department of state police.

(d) All state and local agencies of the Commonwealth engaged in responding to a public health emergency declared pursuant to section 2A or a state of emergency declared under chapter 639 of the acts of 1950 shall consult and cooperate in:

(1) the exercise of their powers over routes of transportation and over materials and facilities including but not limited to communication devices, carriers, public utilities, fuels, food, clothing, and shelter; and

(2) Informing the people of the Commonwealth about how to protect themselves during the emergency and its aftermath and what actions are being taken to control the emergency. For the benefit of people of the Commonwealth who lack sufficient skills in English to understand the information, reasonable efforts shall be made to provide the information in the primary languages of those people as well as in English; and reasonable efforts shall be made to provide the information in a manner accessible to individuals with disabilities.

(e) All state and local agencies of the Commonwealth engaged in responding to a public health emergency declared pursuant to section 2A or a state of emergency declared under chapter 639 of the acts of 1950 are authorized to share and disclose information to the extent necessary for the treatment, control, and investigation of the emergency.

(f) To the extent practicable consistent with the protection of public health, prior to the destruction of any property during the emergency, the department of public health or a local public health authority shall institute appropriate civil proceedings against the property to be destroyed in accordance with the existing laws and rules of the courts of this Commonwealth or any such rules that may be developed by the courts for use during the emergency. Any property acquired by the department of public health or a local public health authority through such proceedings shall, after entry of the decree, be disposed of by destruction as the court may direct.

SECTION 4. Section 1 of Chapter 111, as appearing in the 2006 Official Edition, is hereby amended by inserting after the definition of “inland waters” the following definition:-

“Local public health authority”, any body politic or political subdivision of the commonwealth that acts as a board of health, public health commission, or health department for a city or town and includes any board of health as defined in this section and any regional board of health or regional health district as defined in section 27B of chapter 111.

SECTION 5. Section 5 of chapter 111, as so appearing, is hereby amended by inserting after the word “disease” in line 4, the words:- and adverse health conditions

SECTION 6. Section 5A of chapter 111, as so appearing is hereby amended by striking out the first paragraph thereof and inserting in place thereof the following two paragraphs:-

The department may purchase, produce, and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical or medical supplies in the interest of preparing for or controlling diseases dangerous to the public health.

Whenever the commissioner determines that the inoculation of or administration to the general public, or a subset of the general public, of any antitoxin, serum, vaccine or other analogous product is essential in the interest of the public health and that an emergency exists by reason of a shortage or threatened shortage of such product, the department may purchase, produce, take immediate possession from any source, and distribute such product under such conditions and restrictions as it may prescribe; and while such shortage exists, as determined by the commissioner, the commissioner may establish by written order or orders, rules and priorities for the distribution and use of any such product within the commonwealth. Whoever violates any provision of any such order shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars or by imprisonment for not more than six months, or both.

SECTION 7. Section 6 of said chapter 111, as so appearing, is hereby amended by denoting the language thereof as subsection (a), and by inserting, after the word “diseases” in lines 2 and 4 the following words:-, injuries, health conditions, and threats to health

SECTION 8. Section 6 of chapter 111 is hereby further amended by inserting after subsection (a) the following six subsections:-

(b) The department shall have the power to specify, and shall from time to time specify, the responsibilities of health care providers, medical examiners, and others to report, to the department or to a local public health authority, diseases, injuries, health conditions, and threats to health specified by the department. For purposes of this section, “health care provider” shall

include out-of-state medical laboratories, provided that such laboratories have agreed to the reporting requirements of this commonwealth. The department shall have the power to specify, and shall from time to time specify, the responsibilities of local public health authorities to report diseases, injuries, health conditions, and threats to health to the department. The Department may specify the responsibilities of pharmacists to report to the department unusual or increased prescription rates, unusual types of prescriptions, or unusual trends in pharmacy visits that may indicate a threat to public health. Nothing in this section shall preempt the authority of a local public health authority to require direct reporting of diseases, injuries, health conditions, and threats to health to the local public health authority.

(c) Every local public health authority shall keep a record of all reports received under this section, containing the name and location of all persons reported, their disease, injury, or health condition, the name of the person reporting the case, the date of such report, and other information required by the department. Such records shall be kept in the manner or upon forms prescribed by the department. If a report concerns a student in or an employee of a public school, the local public health authority shall notify the school health authorities. Every local public health authority shall appoint some person who shall have the responsibility to make reports to the department as provided in subsection (b).

(d) This subsection governs the confidentiality of information in the possession of the department, a local public health authority, or any other governmental agency pursuant to their authority under this section, section 2B of chapter 17, and sections 7, 95 and 96 of chapter 111. Information that relates to an individual's past, present, or future physical or mental health, condition, treatment, service, products purchased, or provisions of care, that reveals the identity of the individual, or where there is a reasonable basis to believe that such information could be

utilized to reveal the identity of that individual, either alone or with other information that is, or should reasonably be known to be, available to predictable recipients of such information, shall not be considered a public record as defined in clause twenty-sixth of section 7 of chapter 4. Such information shall be kept confidential except when necessary for disease investigation, control, treatment, and prevention purposes. Only those individuals who have a specific need to review such information to carry out the responsibilities of their employment shall be entitled to access to such information.

(e) Whenever a person required to report learns of a case of a reportable disease or health condition, an unusual cluster, or a suspicious event, that he or she reasonably believes may have been caused by a criminal act, in addition to his or her other reporting responsibilities, he or she shall immediately notify the state police. Whenever the department learns of a case of a reportable disease or health condition, an unusual cluster, or a suspicious event, that it reasonably believes may have been caused by a criminal act or that may result in an emergency detrimental to the public health under section 2A of chapter 17 or a declared state of emergency as defined under chapter 639 of the acts of 1950, as amended, it shall immediately notify the appropriate public safety authorities, which may include the Massachusetts emergency management agency, the department of the state police, and the police department in the city or town where the event occurred, and it shall notify the appropriate federal health and safety authorities. . Whenever a local public health authority learns of a case of a reportable disease or health condition, an unusual cluster, or a suspicious event, that it reasonably believes may have been caused by a criminal act or that may result in an emergency detrimental to the public health under section 2A of chapter 17 or a declared state of emergency as defined under chapter 639 of the acts of 1950, it shall immediately notify the department and the police department in the city or town where

the event occurred, and may notify other appropriate public safety authorities, which may include the Massachusetts emergency management agency the department of state police, and the executive office of public safety and security. Sharing of such information shall be restricted to that necessary for treatment and control of illness, investigation of the incident, and prevention or control of the emergency.

(f) No person making a report under this section shall be liable in any civil or criminal action by reason of such report if it was made in good faith.

(g) Any person required to report who refuses to file a report required by this section shall be subject to a fine of not more than one thousand dollars. An individual health care provider shall be subject to suspension or revocation of his or her license or certification if the refusal to file a report is gross, wanton, or willful misconduct and poses a serious risk to the public health.

SECTION 9. Said chapter 111 is hereby further amended by striking out section 7, as so appearing, and inserting in place thereof the following section:-

Section 7. (a) If a disease or condition dangerous to the public health exists or is likely to exist in any place within the Commonwealth, the department shall make an investigation of it and of the means of preventing its spread, and shall consult with the local authorities. It shall have concurrent powers with the local public health authority in every city or town.

(b) The department is authorized to obtain, upon request, medical records and other information that the department considers necessary to carry out its responsibilities to investigate, monitor, prevent, and control diseases or conditions dangerous to the public health.

SECTION 10. Said chapter 111 is hereby further amended by inserting after section 25K the following 2 sections:-

Section 25L. (a) The department of public health shall establish a registry of volunteer personnel who are available to provide services, including but not limited to health and medical services.

The registry shall be known as the Massachusetts system for advance registration. The department may establish requirements for registration including but not limited to completion of training.

(b) The department shall establish a process to identify personnel in the Massachusetts system for advance registration, which may include a requirement for photographic identification.

(c) The commissioner of public health may activate the Massachusetts system for advance registration:

(1) during an emergency detrimental to the public health declared by the governor under section 2A of chapter 17;

(2) during a state of emergency declared by the governor under chapter 639 of the acts of 1950, as amended;

(3) during a public health incident that demands an urgent response;

(4) pursuant to a request from a local public health authority when local resources have been or are expected to be exhausted during a public health incident that demands an urgent response; ,
or

(5) pursuant to an official request from another state or from a province of Canada.

The location of duty may be within the commonwealth, or may be in another state or a province of Canada if an official request for assistance has been received from such state or province.

(d) If the situation within Massachusetts for which the Massachusetts system for advance registration is activated requires either numbers or expertise of personnel that are beyond the capacity of said system to provide, the commissioner may request personnel from other states having similar personnel registries. In such a case, out of state personnel when acting as authorized personnel in Massachusetts shall receive the protections provided in subsections (g) and (h) to members of the Massachusetts system for advance registration. This subsection shall not apply to or affect a deployment under chapter 339 of the Acts of 2000, known as the Interstate Emergency Management Assistance Compact, or under section 58 of chapter 300 of the Acts of 2002, known as the International Emergency Management Assistance Compact.

(e) Any mobile assets and response resources of the National Disaster Medical System in Massachusetts may be activated for duty when they are not formally activated in federal service, by the commissioner under the circumstances stated in subsection (c), subparagraphs (1) through (4). When so activated, individuals who are members of the National Disaster Medical System shall receive the protections provided in subsections (g) and (h) to members of the Massachusetts system for advance registration.

(f) Any Massachusetts medical reserve corps established pursuant to section 300hh-15 of chapter 42 of the United States code may be activated for duty under the circumstances stated in subsection (c), subparagraphs (1) through (4), and when such activation is authorized by the commissioner, members of such corps shall receive the protections provided in subsections (g) and (h) to members of the Massachusetts system for advance registration.

(g) In the absence of any other protections provided by law, whenever activated for duty, members of the Massachusetts system for advance registration shall be construed to be employees of the commonwealth for the purposes of chapter 258 of the general laws.

(h) In the absence of any other benefits provided by law, any member of the Massachusetts system for advance registration who dies or who sustains disability or injury while activated for duty shall be construed to be an employee of the commonwealth and shall be compensated in like manner as state employees are compensated under the provisions of sections 69 through 75 of chapter 152 of the general laws.

(i) The department of public health is authorized to promulgate rules and regulations to implement this section.

Section 25M. (a) The governor may declare that a supply emergency exists, after conferring with the attorney general and the director of consumer affairs and business regulation, as a result of a natural disaster, military act, civil disorder, terrorist act, bio-terrorist act or other extraordinary circumstance. The governor shall support said declaration of a supply emergency by making written findings regarding the market disruption, the product(s) or services(s) that are in short supply, and that the product(s) or service(s) are essential to the health, safety or welfare of the people. This written declaration shall be filed with the house and senate clerks, the attorney general and the office of consumer affairs and business regulation. The supply emergency shall automatically terminate ninety days after its declaration but may be renewed once more by the governor under the same standards and procedures set forth in this paragraph.

(b) By a majority vote, the general court may terminate a declaration of a supply emergency upon finding that the market disruption has ended, the product(s) or service(s) are no longer in

short supply, and/or that the product(s) or service(s) are not essential to the health, safety or welfare of the people.

(c) The attorney general, in consultation with the office of consumer affairs and business regulation, and upon the declaration by the governor that a supply emergency exists, shall take appropriate action to ensure that no person shall sell a product or service that is at a price that unreasonably exceeds the price charged before the emergency. The attorney general may make reasonable rules and regulations governing exceptions for the additional costs incurred in connection with the acquisition, production, distribution or sale of an energy resource, as well as rules and regulations regarding violations of this section. Nothing in this paragraph shall preempt chapter 93A or any rules or regulations promulgated under such chapter.

SECTION 11. Said chapter 111 is further amended by adding at the end of section 26E, the following paragraph:-

Commissioner of health authority to employ necessary officers, agents and assistants in order to execute health laws and its regulations includes the exclusive authority to supervise and otherwise oversee said officers, agents and assistants. Authority pursuant to this section preempts any ordinance, by-law, regulation or other state or local law that provides for the employment and supervision of department of health officers, agents and assistants.

SECTION 12. Said chapter 111 is further amended by adding at the end of section 27, the following paragraph:

Board of Health authority to employ necessary officers, agents and assistants in order to execute health laws and its regulations includes the exclusive authority to supervise and otherwise oversee said officers, agents and assistants. Authority pursuant to this section preempts any

ordinance, bylaw, regulation or other state or local law that provides for the employment and supervision of local board of health officers, agents and assistants.

SECTION 13. Section 94A of said chapter 111, as so appearing, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) Law enforcement authorities, upon order of the commissioner or his agent or at the request of a local public health authority pursuant to such order, shall assist appropriate medical personnel in the transportation of such person to the tuberculosis treatment center.

SECTION 14. Said chapter 111, as so appearing, is hereby further amended by striking out section 95 and inserting in place thereof the following section:-

Section 95. (a) Whenever the commissioner, or a local public health authority within its jurisdiction, determines that there is reasonable cause to believe that a disease or condition dangerous to the public health exists or may exist or that there is an immediate risk of an outbreak of such a disease or condition, and that certain measures are necessary to decrease or eliminate the risk to public health, the commissioner or local public health authority may issue an order. The order may be a verbal order in exigent circumstances, and in such case it shall be followed by a written order as soon as reasonably possible. The written order shall specify the reasons for it, and may include, but is not limited to:

(1) requiring the owner or occupier of premises to permit entry into and investigation of the premises;

(2) requiring the owner or occupier of premises to close the premises or a specific part of the premises, and allowing reopening of the premises when the danger has ended;

359 (3) requiring the placarding of premises to give notice of an order requiring the closing of the
360 premises;

361 (4) requiring the cleaning or disinfection, or both, of the premises or the thing specified in the
362 order;

363 (5) requiring the destruction of the matter or thing specified in the order.

364 The written order shall be delivered personally to the person to whom it is directed, but if that is
365 not possible, it shall be delivered in a manner that is reasonably calculated to notify such person
366 of it.

367 If a person does not comply with the order, and if the commissioner or the local public health
368 authority determines that non-compliance poses a serious danger to public health, upon request or
369 issuance of an order by the commissioner or local public health authority, an officer authorized
370 to serve criminal process may arrest without a warrant any person whom the officer has probable
371 cause to believe has violated such an order and shall use reasonable diligence to enforce such
372 order.

373 If a person does not comply with the order within the time specified in the order, but the non-
374 compliance does not pose a serious danger to public health, the commissioner or the local public
375 health authority may apply to a judge of the superior court for an order requiring the person to
376 comply with the order within the time specified in the order of the court; and to take whatever
377 other action the court considers appropriate in the circumstances to protect the public health.

378 The law enforcement authorities of the city or town where the person is present shall enforce the
379 court order.

380 Any person who knowingly violates an order, as to which non-compliance poses a serious
381 danger to public health as determined by the commissioner or the local public health authority,
382 shall be punished by imprisonment for not more than 30 days or a fine of not more than one
383 thousand dollars per day that the violation continues, or both. It shall not be a defense to a
384 prosecution for this offense that the commissioner or the local public health authority
385 erroneously determined that non-compliance would pose a serious danger to public health, if the
386 commissioner or local public health authority was acting in good faith under color of official
387 authority.

388 A person who knowingly violates any other order issued under this subsection may be subject to
389 a civil fine of not more than one thousand dollars per day that the violation continues. Any fine
390 collected for any violation of this section shall be credited fifty percent to the courts and fifty
391 percent to the health care safety net trust fund.

392 The commissioner or the local public health authority may recover expenses incurred in
393 enforcing the order from the person to whom the order was directed, by action in the superior
394 court.

395 (b) Furthermore, when the commissioner or a local public health authority within its jurisdiction
396 determines that either or both of the following measures are necessary to prevent a serious
397 danger to the public health the commissioner or local public health authority may exercise the
398 following authority:

399 (1) to vaccinate or provide precautionary prophylaxis to individuals as protection against
400 communicable disease and to prevent the spread of communicable or possibly communicable

401 disease, provided that any vaccine to be administered must not be such as is reasonably likely to
402 lead to serious harm to the affected individual; and

403 (2) to treat individuals exposed to or infected with disease, provided that treatment must not be
404 such as is reasonably likely to lead to serious harm to the affected individual.

405 An individual who is unable or unwilling to submit to vaccination or treatment shall not be
406 required to submit to such procedures but may be isolated or quarantined pursuant to section 96
407 of chapter 111 if his or her refusal poses a serious danger to public health or results in
408 uncertainty whether he or she has been exposed to or is infected with a disease or condition that
409 poses a serious danger to public health, as determined by the commissioner, or a local public
410 health authority operating within its jurisdiction.

411 (c) Furthermore, when the commissioner or a local public health authority within its jurisdiction
412 determines that either or both of the following measures are necessary to prevent a serious
413 danger to the public health, the commissioner or local public health authority may exercise the
414 following authority:

415 (1) to decontaminate or cause to be decontaminated any individual; provided that
416 decontamination measures must be by the least restrictive means necessary to protect the public
417 health and must be such as are not reasonably likely to lead to serious harm to the affected
418 individual; and

419 (2) to perform physical examinations, tests, and specimen collection necessary to diagnose a
420 disease or condition and ascertain whether an individual presents a risk to public health.

If an individual is unable or unwilling to submit to decontamination or procedures necessary for diagnosis, the decontamination or diagnosis procedures may proceed only pursuant to an order of the superior court. During the time necessary to obtain such court order, such individual may be isolated or quarantined pursuant to section 96 of chapter 111 if his or her refusal to submit to decontamination or diagnosis procedures poses a serious danger to public health or results in uncertainty whether he or she has been exposed to or is infected with a disease or condition that poses a serious danger to public health.

(d) (1) When the commissioner or a local public health authority within its jurisdiction reasonably believes that a person may have been exposed to a disease or condition that poses a threat to the public health, in addition to their authority under section 96 of chapter 111, the commissioner or the local public health authority may detain the person for as long as may be reasonably necessary for the commissioner or the local public health authority, to convey information to the person regarding the disease or condition and to obtain contact information, including but not limited to the person's residence and employment addresses, date of birth, and telephone numbers.

(2) If a person detained under subsection (1) refuses to provide the information requested, the person may be isolated or quarantined pursuant to section 96 of chapter 111 if his or her refusal poses a serious danger to public health or results in uncertainty whether he or she has been exposed to or is infected with a disease or condition that poses a serious danger to public health.

(e) This section does not affect the authority of the commissioner or a local public health authority to take action under any other provision of law or under any regulation promulgated pursuant to law.

SECTION 15. Said chapter 111, as so appearing, is hereby further amended by striking out section 96 and inserting in place thereof the following section:-

Section 96. (a) In this section, "isolation" means separation, for the period of communicability, of infected individuals or animals from other individuals or animals in such places and under such conditions as will prevent the direct or indirect transmission of an infectious agent to susceptible people or to other individuals or animals who may spread the agent to others. In this section, "quarantine" means restricting the freedom of movement of well individuals or domestic animals that have been exposed to a communicable disease for a period of time relating to the usual incubation period of the disease, in order to prevent effective contact with those not so exposed. In this section, "disease or condition dangerous to the public health" does not include acquired immune deficiency syndrome (AIDS) or the human immunodeficiency virus (HIV).

(b) Whenever the commissioner, or a local public health authority within its jurisdiction, determines that an individual or group of individuals has or may have a disease or condition dangerous to the public health or is or may be infected with an agent of such a disease or condition, which disease or condition is transmissible between people and poses a serious danger to public health, the commissioner, or a local public health authority may order such individual or group to be isolated or quarantined. An order for isolation or quarantine may include any individual who is unwilling or unable to undergo vaccination, precautionary prophylaxis, medical treatment, decontamination, medical examinations, tests, or specimen collection and whose refusal of one or more of these measures poses a serious danger to public health or results in uncertainty whether he or she has been exposed to or is infected with a disease or condition that poses a serious danger to public health. The order may be a verbal order in exigent circumstances, and in such case it shall be followed by a written order as soon as reasonably

possible. The written order shall be delivered personally, but if that is not possible, it shall be delivered in a manner that is reasonably calculated to notify the individual or group of it. In the case of a group, this may include delivery through the mass media and posting in a place where group members are reasonably likely to see it.

(c) Isolation and quarantine orders must utilize the least restrictive means necessary to prevent a serious danger to public health, and may include, but are not limited to, restricting a person from being present in certain places including but not limited to school or work; confinement to private homes; confinement to other private or public premises; or isolation or quarantine of an area.

(d) An officer authorized to serve criminal process may arrest without a warrant any person whom the officer has probable cause to believe has violated an order for isolation or quarantine and shall use reasonable diligence to enforce such order.

(e) Any person who knowingly violates an order for isolation or quarantine shall be punished by imprisonment for not more than 30 days and may be subject to a civil fine of not more than one thousand dollars per day that the violation continues.

(f) (1) When the commissioner or a local public health authority requires a resident wage earner to be isolated or quarantined, or requires isolation or quarantine of a child under fifteen years of age of whom the wage earner has custody and responsibility, or otherwise interferes with following of his or her employment for the protection of public health, he or she shall be deemed eligible to receive unemployment benefits pursuant to chapter 151A to the extent permitted by federal law.

(2) It shall be a violation of section 4 of chapter 151B for an employer to discharge or reduce any benefits of an employee because he or she is subject to an order of isolation or quarantine, or because a child under fifteen years of age of whom the wage earner has custody and responsibility is subject to an order of isolation or quarantine.

(g) This section does not affect the authority of the department to isolate or quarantine individuals with active tuberculosis pursuant to the requirements and procedures specified in sections 94A through 94H of chapter 111, and regulations promulgated under those sections.

SECTION 16. Section 114 of said chapter 111, as so appearing, is hereby amended by striking out, in line 5, the words “under section one hundred and twelve”.

SECTION 17. Sections 92, 93, 94, 103, 105, 110, 110B, and 113 of chapter 111 are hereby repealed.

SECTION 17A. Section 96A of said chapter 111, as so appearing, is hereby amended by striking out, in line , the words “except under section ninety-six”.

SECTION 18. Section 12B of chapter 112, is hereby amended by striking the section in its entirety and replacing it with the following:

Section 12B. No physician duly registered under the provisions of section two, two A, nine, nine A or nine B, no physician assistant duly registered under the provisions of section nine I or his employing or supervising physician, no nurse duly registered or licensed under the provisions of section seventy-four, seventy-four A or seventy-six, no pharmacist duly registered under the provisions of section twenty-four, no pharmacy technician duly registered under the provisions of section twenty-four C, no dentist duly registered under the provisions of section forty-five, or

forty-five A, no psychologist duly licensed under the provisions of sections one hundred and eighteen through one hundred and twenty-nine, no social worker duly licensed under the provisions of sections one hundred and thirty through one hundred and thirty-seven, no marriage and family therapist or mental health counselor duly licensed under the provisions of sections 165 through 171, and no radiologic technologist duly licensed under the provisions of section 5L of chapter 111, or resident in another state, in the District of Columbia or in a province of Canada, and duly registered or licensed therein, who, in good faith, as a volunteer and without fee, renders emergency care or treatment, other than in the ordinary course of his practice, shall be liable in a suit for damages as a result of his acts or omissions, nor shall he be liable to a hospital for its expenses if, under such emergency conditions, he orders a person hospitalized or causes his admission.

SECTION 19. Section 12C of chapter 112 is hereby amended by striking the section in its entirety and replacing it with the following:

Section 12C. No physician or nurse administering immunization or other protective programs under public health programs, and no other person assisting in the foregoing, shall be liable in a civil suit for damages as a result of any act or omission on his part in carrying out his duties.

SECTION 20. Section 12V of chapter 112 is hereby amended by striking out, in line 1, the words “, whose usual and regular duties do not include the provision of emergency medical care, and”

SECTION 21. Section 13 of chapter 122, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 6, the words “and it shall have the same authority to

remove such person thereto as is conferred upon boards of health by section ninety-five of chapter one hundred and eleven,”

SECTION 22. Section 1 of chapter 258, as appearing in the 2006 Official Edition, is hereby amended by inserting at the end of the definition of “public employee” after the words “division of medical assistance.” the following two sentences: For purposes of this chapter, in response to a declared state of emergency as defined under chapter 639 of the acts of 1950, as amended, or in response to an emergency detrimental to the public health declared under section 2A of chapter 17, all persons acting within the scope of rendering assistance or advice during the emergency and at the request or order of an employee, representative, or agent of a public employer shall be a public employee of the public employer making such request or order. The immunities provided in this section shall not apply to any person whose act or omission caused in whole or in part the emergency or who would otherwise be liable therefor.

SECTION 23. Chapter 268 of the General Laws, as appearing in the 2006 Official Edition is hereby amended by inserting after section 33A the following section:-

Section 33B. Whoever falsely makes, forges, counterfeits, alters, or tampers with any identification card or other insignia issued by or under the authority of the commonwealth, or by or under the authority of a Massachusetts medical reserve corps or a Massachusetts disaster medical assistance team established pursuant to federal law, or with intent to defraud uses or possesses any such identification card or insignia, or impersonates or falsely represents himself to be or not to be a person to whom such identification card or insignia has been duly issued, or willfully allows any other person to have or use any such identification card or insignia, issued

for his use alone, shall be punished by a fine of not more than five thousand dollars or imprisonment for not more than one year, or both.

SECTION 24. The department of public health shall convene a panel of public health preparedness experts to assess current funding resources available for preparedness activities in the Commonwealth and to examine what funding will be needed to sustain state and local preparedness activities. The panel, which shall include representatives from hospitals, local public health authorities, and other health and medical providers, shall convene within 30 days of the effective date of this act and report to the joint committee on public health, the joint committee for health care financing, the house committee on ways and means, and the senate committee on ways and means within 9 months of the effective date of this act.

SECTION 25. The Board of Registration in Pharmacy and a representative from the National Association of Chain Drug Stores, in conjunction with the department of public health, shall study the feasibility of a statewide pharmacy and drug store electronic communication network, that may be used to track trends in pharmacy purchases for the purpose of identifying a possible or emerging threat to public health and evaluating trends in epidemic or pandemic disease.

SECTION 26. Chapter 175 of the General Laws, as appearing in the 2004 official edition, is hereby amended by inserting after section 24F the following section:

Section 24G.

(a) Any policy, contract, agreement, plan, or certificate of insurance for coverage of health care services, including any sickness, health, or welfare plan issued within or without the commonwealth, including but not limited to those of a carrier as defined under section 1 of

chapter 176O, or other state approved health plans, shall provide that, in the event of a declaration of a public health emergency or state of emergency by the governor of the commonwealth which necessitates a suspension of all elective procedures, there will be a waiver of administrative requirements within the zone of that suspension of elective procedures, including but not limited to: utilization review, prior authorization, advance notification upon admission or delivery of services, and limitation on provider networks for treating or transfer of patients. During such declared public health emergency or such state of emergency, all prompt claims payment requirements, including the payment of interest for late processing, are waived for services rendered during such public health emergency or state of emergency.

(b) Upon the declared end of such public health emergency or such state of emergency, there shall be within 180 days a reconciliation of charges and reimbursements, during which time claims may be adjusted or re-adjudicated based on the provisions of any contract between the provider and health carrier, except that such reimbursement shall not be conditioned on the execution during the public health emergency or state of emergency of pre-notification or pre-authorization requirements. In the event that there is no contract between the provider and health carrier, reconciliation will be based on reimbursement amounts equal to the carrier's usual and customary reimbursement rates in force at the date of service, except that for services provided to MassHealth members, reconciliation will be based on reimbursement amounts equal to the MassHealth reimbursement rates in force on the date of service. Upon completion of the reconciliation, any carrier overpayments will be reimbursed by the provider to the carrier and any underpayments will be paid by the carrier to the provider. Investigations of fraud and resultant recovery actions are not subject to this reconciliation period, but must be initiated

594 within three years from the date of the declared end of the public health emergency or state of
595 emergency.

596 (c) A health care insurer shall include the provisions of subsections (a) and (b) in all contracts
597 between the insurer and a health care provider entered into, renewed, or amended on or after the
598 effective date of these subsections.

599 SECTION 27. The department of public health is authorized to promulgate and
600 implement rules and regulations that are reasonable and necessary to implement this Act.

601 SECTION 28. This Act shall take effect upon its passage.